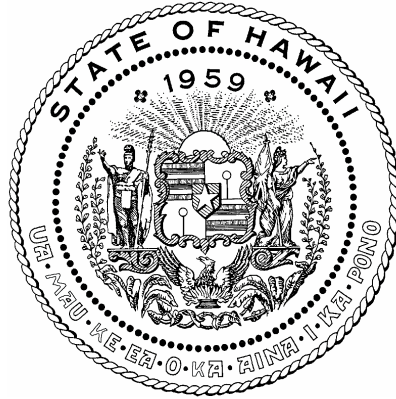


Hawaii State Senate

Committee on Business and Economic Development	1
Committee on Commerce, Consumer Protection, and Housing.....	1
Committee on Education and Military Affairs	3
Committee on Energy, Environment, and International Affairs	3
Committee on Health	5
Committee on Higher Education...	7
Committee on Human Services....	8
Committee on Judiciary and Hawaiian Affairs.....	9
Committee on Labor.....	10
Committee on Media, Arts, Science, and Technology.....	11
Committee on Tourism	12
Committee on Transportation and Government Operations.....	14
Committee on Water, Land, and Agriculture.....	15
Committee on Ways and Means ...	16



2005 Legislative Highlights

**2005 Regular Session
Senate Majority Office**

2005 LEGISLATIVE HIGHLIGHTS

The 2005 Legislative Highlights is a capsule summary of significant bills passed by each Standing Committee of the Hawaii State Senate during the 2005 Regular Session. The bills themselves should be consulted for further information and analysis. These Legislative Highlights, together with the 2005 Legislative Accomplishments and Action Briefs, can be found on the Senate Majority Caucus Website at <http://www.capitol.hawaii.gov/senmaj/>; click on "Legislative Accomplishments" at the top of the page and scroll down to the Highlights. This summary, which was prepared by the Senate Majority Office, is for informational purposes only and is not an official record of action taken by the Hawaii State Senate. Where applicable, Act numbers as of June 8, 2005, have been inserted.

COMMITTEE ON BUSINESS AND ECONOMIC DEVELOPMENT

- **State Cultural Public Market**

SB1721, SD2, HD2, CD1, directs the Hawaii Community Development Authority to designate and develop a permanent state cultural public market on state-owned land within the Kakaako Makai area of Oahu. The public market will showcase the rich cultural diversity of Hawaii's various ethnic groups, and will feature the host Hawaiian culture. This measure is intended to spur growth in the local economy by providing a retail outlet for local farmers and locally-owned businesses, along with a venue for residents and visitors alike to experience and learn more about the host Hawaiian culture and the other cultures found within the State. This Act instructs the HCDA to accept input from other state agencies, to consider the propriety of using public-private partnerships to develop and operate the public market, and provides guidelines for the facilities and services to be offered at the public market. The Act takes effect on October 1, 2005.

- **Procurement Policy Board; Small Business Encouragement and Development**

HB162, HD2, SD1, CD1 (Act 50), directs the State Procurement Policy Board to adopt administrative rules to promote the growth and development of Hawaii's small businesses. This Act is intended to provide opportunities for small businesses on Hawaii state and county contracts. Specifically, it requires set asides of contracts that are appropriate for performance by small businesses and adds the effective use of small business subcontractors to the criteria used to evaluate bids for large contracts. This measure also directs the policy board to adopt rules to redefine "small business" through detailed criteria that may include the number of employees and similar factors used by the U.S. Small Business Administration. The Act takes effect July 1, 2005.

COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HOUSING

- **Affordable Housing; Omnibus Legislation**

In 2005, the Legislature approved an omnibus measure that implements various strategies to address the issue of the affordable housing shortage in Hawaii. **SB179, SD3, HD2, CD1**, among other things:

COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HOUSING—*cont'd*

- (1) Grants the counties flexibility to adopt land use density provisions that encourage the development of affordable rental housing;
- (2) Authorizes tax incentives, including a general excise tax exemption for developers of affordable rental housing and conveyance tax exemption for documents conveying real property, to developers of low-income housing and increases the low-income housing tax credit;
- (3) Facilitates use of the Rental Housing Trust Fund (RHTF) by: (a) relaxing affordability requirements and underwriting criteria; (b) allowing use of the RHTF for loans and grants; (c) expanding the pool of eligible RHTF applicants to include corporations, limited liability companies, and partnerships; and (d) abolishing the RHTF Advisory Commission to eliminate duplicative review processes;
- (4) Authorizes use of the Dwelling Unit Revolving Fund for permanent primary or secondary financing;
- (5) Declares a two-year moratorium on the demolition of decommissioned public housing projects and authorizes the offer of decommissioned housing to nonprofits or government agencies for rehabilitation into emergency or transitional homeless shelters or affordable rental housing;
- (6) Effective July 1, 2006, establishes the Hawaii Housing Finance and Development Administration to administer the State's housing development and financing programs; and
- (7) Establishes a joint legislative housing and homeless task force to further identify near-term solutions to Hawaii's affordable housing and

• **Condominium Recodification**

Act 164, Session Laws of Hawaii 2004, recodified the condominium property regimes law with respect to provisions of general applicability and those relating to condominium management. **SB1132, SD2, HD1, CD1 (Act 93)** completes the recodification process by establishing new provisions relating to the:

- (1) Creation, alternation, and termination of condominiums;
- (2) Registration and administration of condominiums; and
- (3) Protection of condominium purchasers.

Additionally, this measure facilitates the management of condominium association funds by repealing the prohibition on investment of funds in certificates of deposit purchased through a securities broker and on the purchase of investment products from out-of-state financial institutions. The repeal of the current condominium property regimes law and enactment of the new law takes effect on July 1, 2006.

COMMITTEE ON EDUCATION AND MILITARY AFFIARS

- **New Century Charter Schools; Funding Mechanisms; Omnibus**

SB1643, SD2, HD2, CD1 (Act 87) commonly referred to as the charter school omnibus bill, essentially made clarifying amendments to charter school statutes. The focus of the measure clarifies that all new century charter schools are public schools and should be afforded the same benefits and financial support as the other public schools. Specifically, this measure provides for a more equitable and fair administrative and financial structure for charter schools. Furthermore, this measure addresses the inadvertent reductions in funding allocations to charter schools and clarifies that charter schools and their employees are authorized to participate in the State's workers' compensation system and should be allocated funds for fringe benefits and collective bargaining. Charter school employees are also provided with a system to move more freely between charter schools and the Department of Education public schools. Another discrepancy that this measure attends to is the type of exemptions that may reasonably be granted to charter schools, as the Attorney General and Auditor have found ambiguity on the issue of which public laws the charter schools are exempt from. This measure also establishes a task force on charter school governance to identify and recommend to the Legislature revisions to the existing charter school law, to help create an effective framework for overseeing and supporting new and existing charter schools. In particular, the task force is required to review the limitation of charter school exemptions from laws to only those laws applying to public schools.

- **Public School Teachers; Shortage; Retention**

HB844, HD1, SD2, CD1, implements programs and makes amendments to encourage teacher retention and recruitment. Along with the rest of the nation, Hawaii is experiencing a teacher shortage. This measure recognizes that effective teaching is of critical importance in the development of a successful educational system. The teacher cadet program this measure establishes works with all of the major Hawaii-based teacher training programs and attempts to identify and support prospective teachers while they are still in their high school years. As for those who have chosen to study education at the university level, this measure provides for an increase in faculty at the University of Hawaii College of Education and requires a review of its admissions standards to consider allowing freshman students to declare education as their major to help them graduate sooner. To directly address recruitment obstacles, the Department of Education is required to establish policies for enabling newly hired employees to receive their first paycheck in a timely manner. Additionally, the Hawaii Teacher Standards Board is required to adopt policies that allow the licensing of more individuals by considering candidates with practical experience or who are teachers from other states. This measure also clarifies licensure requirements on a state-by-state basis for out-of-state licensed teachers.

COMMITTEE ON ENERGY, ENVIRONMENT, AND INTERNATIONAL AFFAIRS

- **Reverse Vending Machine Rebates; Redemption Center Infrastructure Improvement**

SB212, SD2, HD2, CD1, establishes provisions to improve the level of participation in the deposit beverage container program through improvements to

COMMITTEE ON ENERGY, ENVIRONMENT, AND INTERNATIONAL AFFAIRS—*cont'd*

the reverse vending machine rebate program. The measure provides an incentive to dealers by providing rebates to them, totaling up to \$3,000,000 each fiscal year, for reverse vending machines. In addition, the measure establishes provisions for the redemption center and recycling infrastructure improvement program by authorizing the Department of Health to award up to \$3,000,000 per fiscal year to improve redemption and recycling infrastructure on a statewide basis. Moneys contained in the deposit beverage container deposit special fund may be tapped to fund both the reverse vending machine rebate program and the redemption center and recycling infrastructure improvement program. The measure provides for its own repeal on 6/30/06, but allows any enforcement actions regarding the reverse vending machine rebate program brought by the Department of Health to continue after that date until completion.

- **Cruise Ships; Discharges and Emissions**

HB422, HD2, SD2, CD1, seeks to reduce pollution within the waters of the State by regulating discharges and emissions from certain commercial passenger vessels. The measure affects vessels authorized to carry 50 or more passengers for hire, that provide overnight accommodations for at least 50 passengers for hire, and are not operated by the United States or a foreign government. Certain provisions affect large commercial passenger vessels, defined as those that provide overnight accommodations for at least 250 passengers for hire. Commercial passenger vessels operating solely in innocent passage are exempted from the measure's regulations. The discharge of untreated sewage from a commercial passenger vessel covered under this measure into the marine waters of the State is prohibited. Certain air emissions are prohibited, and large commercial passenger vessels are prohibited from operating an incinerator in any Hawaiian port for the combustion of any waste material. The Department of Health may establish alternative conditions for compliance where a vessel cannot practicably comply with the requirements set forth in the measure. In order to document compliance, the owner or operator of a commercial passenger vessel travelling through the marine waters of the State must maintain records detailing when, where, and the volume or flow rates of any discharge of sewage, graywater, or other wastewater, as well as the opacity of its air emissions. This information must be maintained for 3 years after it was gathered. The Department of Health shall adopt, through administrative rulemaking, a schedule of fines for violations of the provisions within this measure.

- **Environment Workforce; Research Corporation of the University of Hawaii**

SB1554, SD1, HD2, CD1, establishes the environmental workforce program to be administered by the Research Corporation of the University of Hawaii (RCUH). The emergency environmental workforce, established after the national tragedy of 9/11/01, was found to be effective in controlling invasive species, including the coqui frog and the miconia plant. Thus this measure establishes the program on a permanent basis. The workforce shall provide labor to assist the counties in their efforts to prevent the introduction and spread of invasive species, and to eradicate invasive species throughout the State. The RCUH may provide training and research opportunities to the workforce in the biological and social sciences related to the eradication of

COMMITTEE ON ENERGY, ENVIRONMENT, AND INTERNATIONAL AFFAIRS—*cont'd*

invasive species. The RCUH must submit an annual report to the Legislature about the program at least twenty days prior to the start of session. The measure eliminates the temporary emergency environmental workforce through the repeal of Act 4, Third Special Session Laws of Hawaii 2001. The Hawaii Invasive Species Council is directed to work in collaboration with the RCUH in order to deploy the workforce effectively.

- **Invasive Species;
Coqui Frog Control or
Eradication**

HB1301, HD1, SD2, CD1 (Act 51), appropriates \$50,000 to the City and County of Honolulu, \$50,000 to the County of Kauai, \$100,000 to the County of Maui, and \$100,000 to the County of Hawaii for response and control efforts, programs, and initiatives that are found to be the most effective in controlling or eradicating the coqui frog. Each county is to work in collaboration with that county's invasive species committee or other invasive species working groups to address options in dealing with the coqui frog situation.

- **Solar Energy Devices;
Single-Family
Residential Dwelling
and Townhouse**

HB1017, HD3, SD2, CD1, allows homeowners who wish to practice energy conservation to place solar energy devices in single-family dwellings and townhouses governed by a private entity, such as a condominium homeowners association, despite any agreement between the parties to the contrary. A "townhouse" is defined as a series of individual houses having architectural unity and a common wall between each unit extending from the ground to the roof. By 12/31/06, private entities must adopt rules providing for the placement of registered solar energy devices. A solar energy device must comply with the private entity's rules and specifications, be registered with the private entity within 30 days of installation, and be approved in writing by the homeowner's association if the device is placed on a common element or a limited common element. Only a duly licensed contractor shall be authorized to install a solar energy device. The measure also requires the homeowner to provide the private entity with a certificate of insurance naming the private entity as an additional insured on the homeowner's insurance policy. If the proposed installation of a solar energy device is on a roof that is a common element or limited common element, and has a labor or material warranty, the homeowner must obtain confirmation from the issuer of the warranty that the proposed installation will not void the warranty. Under this measure, the owner or any successors must remove any solar energy devices installed on a common element or limited common element if the removal is reasonably necessary or convenient for the repair, maintenance, or replacement of the common elements or limited common elements. The measure also amends Act 164, Session Laws of 2004 ("Condominium Property Act") by making conforming changes that are consistent with this measure.

COMMITTEE ON HEALTH

- **Pseudoephedrine Permit**

SB1100, SD2, HD1, CD1, requires any person transporting by any means more than three packages of any restricted pseudoephedrine product to obtain a

COMMITTEE ON HEALTH—cont'd

pseudoephedrine permit from the Department of Public Safety. Unlawful transport of pseudoephedrine is a misdemeanor. Pharmacies and retailers are also prohibited from selling or distributing without a prescription more than three packages or not more than nine grams per transaction of pseudoephedrine products. In addition, pseudoephedrine products must be sold from areas that are either in the direct line of sight of an employee at a check-out station or counter, under constant video monitoring, or in an area that is not accessible by customers or the general public. Pseudoephedrine, a nonprescription cold remedy, is increasingly used in the clandestine manufacture of crystal methamphetamine, commonly referred to as "ice." The measure strikes a balance between reducing the amount of pseudoephedrine products being diverted to clandestine laboratories and consumer needs and convenience.

- **Healthcare Task Force**

HB1304, HD1, SD2, CD1, establishes a temporary health care task force to develop a plan to implement healthcare for all Hawaii residents. Since entities such as the Hawaii Uninsured Project, the Vision 2000 Healthcare Congress, and the Governor's Blue Ribbon Panel on Cancer Care in Hawaii, among others, have ongoing efforts in place to address related health care issues, the task force will use the work of these entities as a starting point for the development of the plan. The membership will be comprised of a balanced representation of interested parties with members having experience in health care and the health care industry, members from private sector organizations, members who actively participate with the Hawaii Uninsured Project, and members from at least one public union and one neighbor island. The Hawaii Uninsured Project will facilitate and help contract for expert testimony or studies, or both, including a cost analysis comparing the costs under the status quo with various systems of coverage under consideration. The measure requires the task force to report its findings and recommendations to the Legislature, including the cost analysis and a detailed rationale for implementation.

- **Retail Tobacco Permit**

SB682, SD2, HD3, CD1, requires every retailer engaged in the retail sale of cigarettes and other tobacco products to obtain a retail tobacco permit from the Department of Taxation. The permit fee is \$20 and is valid for one year, renewable annually. The measure provides penalties for unlawful tobacco retailing. It also gives the Department the authority to suspend, revoke, or decline to renew a retail tobacco permit or a wholesaler or dealer license for good cause. At present, it is not possible to know who is or how many retail vendors are currently selling tobacco products. The permit will facilitate enforcement of current law by providing a known and measurable list of entities engaged in the retail sale of cigarettes and other tobacco products. This will greatly enhance efforts to reduce youth access to tobacco and to deal with counterfeit stamped products. It also facilitates diligent enforcement of the Master Settlement and Cigarette Tax law.

- **State Pharmacy Assistance Program**

SB802, SD2, HD, CD1, establishes a state pharmacy assistance program within the Department of Human Services (DHS). With the rising cost of prescription

COMMITTEE ON HEALTH—cont'd

medication, many seniors and disabled individuals who are living on fixed incomes find it hard to make ends meet, even though they receive Medicare benefits. Some of these Medicare-eligible individuals are also Medicaid recipients who now enjoy one hundred percent drug coverage under Medicaid. However, with mandatory participation in the new Federal Medicare Modernization Act, these individuals will lose their current level of drug coverage. The state pharmacy assistance program will assist current Medicaid recipients to retain more of their current drug benefits as well as increase the population of Medicare individuals who may take advantage of this drug benefit. The program also facilitates the enrollment and coordination of benefits between the state pharmacy assistance program and the new Medicare Part D drug benefit program. The Act allows a prescription drug manufacturer or labeler that sells prescription drugs in the State to enter into a rebate agreement with DHS, whereby the manufacturer or labeler makes rebate payments to DHS according to a schedule. Program benefits will be based on the receipt of sufficient rebates to fund the benefits. The Act also establishes the state pharmacy assistance program special fund into which all rebate moneys shall be deposited along with any appropriations or other revenues designated for the fund.

COMMITTEE ON HIGHER EDUCATION

- **Constitutional Amendment; University of Hawaii Board of Regents**

SB1256, HD1, proposes an amendment to Article X, section 6, of the Hawaii State Constitution. The amendment modifies the appointment process for the Board of Regents by granting authority to a candidate advisory council to nominate individuals from a pool of qualified candidates. The qualified candidate will then be appointed by the Governor, by and with the advice and consent of the Senate. The Committee on Higher Education found that modifying the selection process for the Board of Regents as provided in this measure would increase the regents' autonomy, modernize the University's governance, and strengthen the selection process by providing an independent screening body to identify outstanding candidates.

- **University of Hawaii Board of Regents; Candidate Advisory Council**

SB1257, SD2, HD2, CD1, contains the statutory amendments that would implement SB1256 if it is adopted at the next general election. It would recommend two to four candidates for each place on the Board of Regents within thirty days of a vacancy occurring. The Governor would select one nominee from that list. The advisory council would have to follow specified criteria for candidate qualification. The measure also changes, without the need for voter approval, the number of members on the Board of Regents from 12 to 15, and sets forth specific geographic requirements for each county. The terms of office are changed to two consecutive five year terms. The changes to the composition and tenure of the Board of Regents would take place on July 1, 2007.

COMMITTEE ON HIGHER EDUCATION—cont'd

- **Nursing Scholar Program**

SB116, SD2, HD2, CD1, establishes a nursing scholar program under the University of Hawaii to alleviate the nursing shortage in the State by increasing the supply of nurses with advanced degrees who can become nursing educators. The Act authorizes the University of Hawaii to grant scholarships to students enrolled in a graduate degree program in nursing in a public or private post-secondary educational institution in this State. Upon completion of the graduate degree, the student must commence nursing instruction in this State for a period of time equal to the number of years that the student received a scholarship grant. The Committee on Higher Education found that one of the reasons for the nursing shortage was the lack of a sufficient number of qualified faculty. Another reason was the diminishing rate of financial returns in pursuing a graduate level nursing education when a baccalaureate level education will more than ensure a steady career.

COMMITTEE ON HUMAN SERVICES

- **Family Court; Shared Parenting**

SB556, SD2, HD2, CD1, addresses the most complex and emotional issues surrounding contested custody issues during divorce proceedings in the family court, that of parents' participation in raising their child. This measure allows the court, during a contested custody proceeding, to take into consideration, when awarding custody, the importance of frequent, continuing, and meaningful contact with both parents. It encourages both parents to share the responsibility of raising their child. This measure requires both parents to submit a mutually agreed or individually desired parenting plan with a divorce complaint and answer. The parenting plan can include parental responsibilities and parenting time. The measure sets forth criteria that parents can refer to and use as a guideline in developing their parenting plan. If the parents cannot agree on a parenting plan, the court can order parents to participate in alternative dispute resolution and counseling from a professional, unless there is a finding of family violence. It also provides opportunities for the court or the parents to revise or change the parenting plan from time to time.

- **Temporary Assistance to Needy Families (TANF) Funds; Public Input**

In **HB140, HD1, SD2, CD1**, the Legislature found that Hawaii, like other states, receives limited Temporary Assistance for Needy Families (TANF) funds to replace the previous system of welfare, and that the following are necessary to evaluate how TANF funds are implemented and expended:

- (1) Public input over the implementation of use of TANF funds;
- (2) Conducting hearings to receive public input; and
- (3) Performing evaluations of TANF program spending. Evaluations can provide the Legislature with specific and accurate details concerning how welfare reform is working. They also provide a critical opportunity to correct and identify program deficiencies, identify new needs, and review areas for expansion and innovation to better serve the intended target groups.

COMMITTEE ON HUMAN SERVICES—cont'd

This measure requires the Department of Human Services to make all data available relating to TANF funds to the legislative committees having primary jurisdiction over fiscal, health, and human services issues, upon request. The committees will jointly evaluate the implementation of the state TANF program and program expenditures and make annual recommendations for appropriations. This measure also allows the Legislature to conduct hearings to receive public comment relating to the implementation of the state TANF program and how funds have been expended, and requires no less than one hearing annually on each island of the State.

- **Medical Assistance;
Disclosure of
Applicant's Employer**

SB1772, SD1, HD2, CD1, enables the State to determine which employers are shifting the responsibility for providing health care coverage for their workers to taxpayers. This measure requires that each applicant for medical assistance under any program administered by the Department of Human Services must identify the employer of the proposed beneficiary of medical assistance and submit to the Legislature an annual report before October of each year, identifying all employers who employ twenty-five or more beneficiaries of medical assistance programs administered by the department. This report will include:

- (1) Each employer's name and names of subsidiaries that employ beneficiaries of department medical assistance programs;
- (2) The location of the employer;
- (3) For each department medical assistance program, the total number of the employer's employees and dependents who are enrolled in the program; and
- (4) The total cost to the State per year of providing medical assistance benefits for the employees and enrolled dependents of each identified employer.

The report shall not include the name of any medical assistance program beneficiary and shall be subject to applicable privacy standards under the Medicaid regulations as well as the administrative simplification provisions of HIPAA with respect to the nondisclosure of certain identifying information of beneficiaries in the annual report to the Legislature. The annual report will be available for public review.

COMMITTEE ON INTERGOVERNMENTAL AFFAIRS

- **Fraudulent License
Plates**

HB78, HD1 (Act 5), makes it unlawful for any person to manufacture, sell, display, permit to be displayed, or possess any reproduction, imitation, or facsimile of a license plate with a similar design, shape, size, and color as the

COMMITTEE ON INTERGOVERNMENTAL AFFAIRS—cont'd

official license plate issued by the City and County of Honolulu. This language strengthens existing law on fraudulent license plates by making detection of auto theft easier for police. Auto theft in Honolulu, with thousands of motor vehicles, is a huge problem for police.

- **Outdoor Advertising; Billboards; Regulation by Counties**

HB864, SD1, CD1, clarifies that county ordinances prohibiting billboards and outdoor advertising devices extend to those located in the airspace or waters beyond the boundaries of the county that are visible from any public highway, park, or other public place located within the county, unless the ordinance specifies that it does not apply. This bill arises from a court case that challenged Honolulu's ordinance prohibiting aerial advertising. The case involved the use of airspace advertising in the form of a plane towing a large sign near shore so as to be visible from the shore.

COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

- **Campaign Spending; Campaign Contributions; Limitations**

HB1747, HD1, SD1, CD1, is a comprehensive campaign spending reform measure that establishes new restrictions regarding the use of state and county government facilities for fundraising purposes, limits the total amount of contributions that may be received by a candidate or candidate committee for each reporting period from nonresident donors, and limits the ability of state and county contractors to make, promise, or solicit campaign contributions at any time between the execution of the government contract through the completion of the government contract. This measure also clarifies the disposition of campaign contributions in the event the candidate, committee, or individual who receives contributions fails to file a nomination for that election, withdraws, or ceases to be a candidate. This measure expands the electronic filing of reports with the appropriate county clerk or Campaign Spending Commission to include a candidate or candidate committee for State Senate, State House of Representatives, and the Office of Hawaiian Affairs. This measure limits the use of campaign contributions to community service, educational, youth, recreational, charitable, scientific, or literary organizations from the date the candidate files nomination papers to the date of the general election. Finally, this measure requires the disclosure of the terms of a loan, including the interest and repayment schedule, made to a candidate. The Committee on Judiciary and Hawaiian Affairs found that this measure is designed to address concerns in the community with respect to reforming Hawaii's campaign spending laws by increasing transparency and accountability in the conduct of political campaigns and elections.

- **Sex Offender Registration and Public Access**

SB708, SD2, HD2, CD1 (Act 45), is Hawaii's version of "Megan's Law", which properly balances the rights of sex offenders with the right of the public to access pertinent information concerning these offenders. This measure establishes separate registries for sex offenders and offenders against children as well as clarifies both the type and scope of registration information that must be provided by a sex offender. This measure also establishes specific registration

COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS—cont'd

periods and corresponding levels of public access to offenders' information that are applicable to certain categories of sex offenders. Public access to an offender's public information commences the next working day following the filing of a judgment of conviction, a finding of unfitness to proceed, or an acquittal due to mental disease, disorder, or defect. Public access ceases upon the reversal of a conviction, the granting of a pardon to the offender, the expiration of a statutorily established time period for public access, or upon the successful petition for termination of public access by an offender. This measure also permits the early termination of registration and public access requirements, subject to judicial approval, after a hearing has been held on the offender's petition and the offender is able to satisfy specific statutory criteria. A sex offender is able to petition the court once every five years for early termination of registration and public access requirements. This measure also clarifies the continuing obligation of the sex offender to provide or update registration information. The Committee on Judiciary and Hawaiian Affairs found that this measure complies with both federal law requirements as well as the constitutional amendment passed by Hawaii voters in 2004 that provided that the public has a right of access to registration information regarding persons convicted of certain offenses against children as well as persons convicted of certain sexual offenses.

COMMITTEE ON LABOR

- **Voluntary Employees' Beneficiary Association (VEBA) Trust; Health Benefits**

HB1608, HD1, SD1, CD1, authorizes the establishment of voluntary employees' beneficiary association (VEBA) trusts by a public employee organization for the provision of health benefits to employees and retirees who are members of the employee organization. Participation in a VEBA trust excludes employees and retirees from participation in the Hawaii employer-union health benefits trust fund. In the face of the escalating costs of health care not only in Hawaii, but also throughout the nation, alternate methods for the provision of health benefits to public employees must be explored and analyzed. The establishment of a pilot program for VEBA trusts will provide valuable insight to the viability of VEBA trusts as a cost-savings mechanism for the State. The measure authorizes the establishment of VEBA trusts for a period of three years in order to assess the benefits and detriments created by their establishment.

- **Minimum Wage Law; Increase**

Although the minimum wage amount was recently increased, effective in 2003, the increase has failed to keep pace with the rate of inflation. As a result, a worker's purchasing power has continued to diminish over time. Prior to the most recent increase, no previous adjustment had been made to the minimum wage amount since 1993. In Hawaii, the cost of living is higher than that of much of the rest of the nation, which compels many individuals to work two jobs just to make ends meet. As it appears that we have now turned the corner, heading towards improved economic times, it is necessary to assist entry-level workers to allow them to share in this period of economic

COMMITTEE ON LABOR—cont'd

growth and prosperity. As a result, the Legislature passed **SB294, SD3, HD1, CD1**, which raises the minimum wage from \$6.25 per hour to \$6.75 per hour, effective January 1, 2006, and then to \$7.25 per hour, effective January 1, 2007.

- **Workers' Compensation Law**

Workers' compensation law reform is necessary and long overdue. Fundamentally, workers' compensation laws were enacted for the protection of the employees; however, the interests of all parties must be carefully weighed and considered, something the Legislature was mindful of in making changes to the workers' compensation law. The need for clear rules and regulations in this area is important, as well as for reasonable procedures that do not destroy the rights and privileges provided under the current law. Under **SB1808, SD1, HD1, CD1**, the Legislature has sought to protect the balance created by legislation between the interests of injured workers and their employers and carriers, and to protect the integrity of the separation of powers between the Legislature and the Executive Branch, while also amending certain provisions for further refinement of the law and the system. This measure codifies the administrative rules regarding the disability compensation division by incorporating the current rules as of January 1, 2005 into chapter 386, Hawaii Revised Statutes, to preserve and protect the prerogative of the Legislature and to prevent the abuse of power. This measure also appropriately provides for adequate care and assistance for injured individuals, through appropriate vocational rehabilitation, in order for them to return to gainful employment. Furthermore, the measure successfully clarifies issues of discovery, places reasonable limits on the amount of information required to be furnished by treating physicians, provides guidance on the award of attorney's fees, limits and suspends the Director's rulemaking authority to ensure that the current rules are maintained, authorizes the Insurance Commissioner to investigate and prosecute complaints of workers' compensation fraud, and adds language relating to parties' successfully bringing a claim of fraud.

COMMITTEE ON MEDIA, ARTS, SCIENCE, AND TECHNOLOGY

- **High Technology Development Corporation; Nonprofit Corporation Established**

SB1702, SD1, HD2, CD1, grants the High Technology Development Corporation (HTDC) increased self-sufficiency and greater flexibility in its ability to respond to growth and development potential in Hawaii's rapidly expanding technology sector. Specifically, this measure establishes the High Technology Innovation Corporation (HTIC), a nonprofit subsidiary of the HTDC. The HTIC will provide additional revenue sources and an improved ability to respond quickly and efficiently to opportunities and changes in Hawaii's technology sector.

- **Movies Theaters; Unauthorized Audiovisual Recording Prohibited**

HB164, HD1, SD1, CD1 (Act 59) establishes the misdemeanor offense of "unauthorized operation of a recording device in a motion picture theater." The purpose of this measure is to prohibit movie piracy by banning any person from knowingly operating any device with audiovisual recording

COMMITTEE ON MEDIA, ARTS, SCIENCE, AND TECHNOLOGY— cont'd

technology in a movie theater while a motion picture is being exhibited. It also extends theater operators and their agents the same protection from civil liability that retail merchants are afforded for detaining suspected shoplifters while awaiting the arrival of law enforcement officers.

- **Historic Property;
Aviation Artifacts;
Burial Sites**

HB712, HD2, SD2, CD1, creates criminal sanctions for knowingly taking, appropriating, excavating, injuring, destroying, or altering historic property, aviation artifacts, or burial sites without permission or obtaining the required approval, and for knowingly failing to stop work in the immediate area of, or to report the discovery of, a burial site. This measure also authorizes a court or administrative adjudicative authority to impose civil and administrative fines for knowingly failing to re-inter human remains or for gluing together, labeling with a marking pen, or conducting any tests that destroy human skeletal remains. The purpose of this measure is to protect and preserve important historic and cultural burial sites and the artifacts located within those sites.

COMMITTEE ON TOURISM

- **Transient
Accommodations
Tax; Allocations;
Hawaii Tourism
Authority**

SB1729, SD2, HD2, CD1, provides a dedicated source of funding from the transient accommodations tax (TAT) for various visitor assistance programs and increases the funding for the Hawaii Tourism Authority (HTA). Effective July 1, 2007, the allocations of TAT revenues will be modified so that 34.2 percent (increased from 32.6 percent) of the TAT revenues will be deposited into the tourism special fund which is used for the purposes of the HTA, and the 5.3 percent of the TAT deposit into the TAT trust fund will be repealed along with the fund itself. All excess revenues will be deposited into the general fund. Currently, 90 percent of TAT revenues deposited into the tourism special fund in excess of \$62,292,000 is deposited into the state parks special fund, and 10 percent in excess is deposited into the special land and development fund. The combined deposits into those funds are limited to \$1,000,000 in any fiscal year. Beginning July 1, 2007, this formula is changed so that the first \$1,000,000 of TAT revenue deposited into the tourism special fund will be deposited into the state parks special fund (90 percent) and into the statewide trail and access program (10 percent). This ensures money for state parks and the statewide trail and access program. For the first time, beginning July 1, 2007, there will be dedicated funding for safety and security programs. Of the 34.2 percent of TAT revenues deposited into the tourism special fund, 0.5 percent will be transferred to a sub-account in the tourism special fund to provide funding for a safety and security budget, in accordance with the Hawaii Tourism Strategic Plan 2005-2015. The State's investment in tourism is critical to ensure that Hawaii maintains a successful and sustainable tourism industry. It is imperative that the HTA be given additional resources to effectively and efficiently implement its programs, which will contribute to an increased focus on areas such as safety, security, and state parks and trails.

COMMITTEE ON TRANSPORTATION AND GOVERNMENT OPERATIONS

- **County Surcharge for Transit Projects**

HB1309, HD2, SD2, CD1, allows each county to establish by ordinance a county surcharge of up to one-half percent on the general excise tax and use tax. The county tax will be collected by the Department of Taxation, minus ten percent for administrative expenses of collection, to be disbursed quarterly to the county adopting the surcharge. Each county has until December 31, 2005 to enact an ordinance, but the surcharge does not go into effect until January 1, 2007. If none of the counties timely enact an ordinance, the measure will be repealed. The surcharge funding is dedicated to transportation funding in the county enacting the surcharge. For counties with a population greater than 500,000, the funding is for operating or capital costs of a locally preferred alternative for a mass transit project and expenses thereto of complying with the Americans with Disabilities Act. For counties with a population of 500,000 or less, the funding is for operating or capital costs of public transportation systems, including public roadways or highways, public buses, trains, ferries, pedestrian paths or sidewalks, or bicycle paths, and expenses thereto of complying with the Americans with Disabilities Act. The county surcharge, as well as the entire measure, is repealed on December 31, 2022. The intent of the measure is to improve public transportation, particularly on Oahu. The cost of mass transit is prohibitively expensive. An impending federal funding deadline requires Hawaii to show a dedicated source of funding in order to receive federal funding.

- **Graduated Provisional Driver Licensing Program**

HB150, HD2, SD2, CD1 (Act 72) establishes a three-stage graduated provisional driver licensing program for persons under the age of eighteen. The measure takes effect on January 9, 2006, and sunsets on January 9, 2011. The first stage is an instruction permit for persons age fifteen years and six months, which is the current law. The instruction permit must be held at least one hundred eighty days. The second stage is a provisional license for persons at least sixteen and less than eighteen years of age. The third stage is a driver's license for persons at least seventeen but less than eighteen years of age. New driving restrictions are placed upon the instruction permit holder and the provisional licensee. This measure is intended to improve traffic safety. The Committee on Transportation and Government Operations found that teenage drivers are disproportionately involved in crashes, including fatal crashes, and that this graduated system will save lives.

- **Intoxicants; Repeat Offenders; Vehicle Forfeiture**

HB919, HD1, SD2, permits the forfeiture of a vehicle for a conviction of operating a vehicle under the influence of an intoxicant within five years of two prior convictions or a conviction for habitually operating a vehicle under the influence of an intoxicant, if the vehicle is owned and operated by the driver. The Department of Transportation is responsible for providing storage of the forfeited vehicle. Alcohol and drug impaired driving remains one of the most frequently committed violent crimes. Vehicle forfeiture is a means of reducing the incidence of crashes and fatalities, particularly for those impaired drivers who have been convicted twice previously of operating under the influence of an intoxicant. One of the best means to ensure they do not get on the road again is to confiscate their vehicles.

COMMITTEE ON TRANSPORTATION AND GOVERNMENT OPERATIONS—cont'd

- **Disaster Emergency Preparedness Act; Civil Defense**

SB960, HD1, CD1, appropriates \$4,000,000 (\$2,000,000 in each fiscal year) for natural disaster preparedness efforts, including installing and maintaining new siren systems; updating evacuation maps in phone books; constructing additional shelter space and retrofitting existing public buildings that could serve as emergency shelters; developing statewide residential safe room design standards by January 1, 2006; providing around-the-clock alert staff for the Civil Defense Division; and expanding public education campaigns that emphasize the need for natural disaster, including tsunami and hurricane preparedness. The measure also appropriates \$4,000,000 (\$2,000,000 in each fiscal year) to be expended on the loss mitigation grant program. This measure addresses the need for natural disaster preparedness by appropriating funds for that purpose. Due to Hawaii's experience with tsunamis and hurricanes, a disaster alert system is in place providing early warning to residents. Even with this comprehensive, state-of-the-art-monitoring system, Hawaii's disaster warning efforts have not kept pace. Antiquated siren systems, outdated evacuation maps in telephone books, insufficient shelter space, limited public education projects, and a lack of around-the-clock alert staff mean Hawaii residents may lose critical seconds in evacuation time or, worse, be unable to access emergency care and shelter in the event a disaster strikes. This measure addresses these problems.

- **Honolulu Harbor; Piers 1 and 2; Jurisdiction**

HB85, HD2, SD2, transfers the jurisdiction and administrative authority over piers 1 and 2 of Honolulu Harbor, which is part of the Kakaako Community Development District, from the Hawaii Community Development Authority to the Department of Transportation. The transfer includes the contiguous backup fast lands that are used for manifested cargo and passenger operations. Piers 1 and 2 contain vital and unique maritime cargo facilities that must be maintained at Honolulu Harbor, and should be preserved to provide for an expansion area consistent with the predicted growth of future cargo requirements and to permit for the safe and efficient berthing of major cargo vessels. Projections made by the Department of Transportation, Harbors Division, indicate that foreign cargo capacity will be exhausted within five years at the present rate of growth.

COMMITTEE ON WATER, LAND, AND AGRICULTURE

- **Land Conservation Fund; Conveyance Tax**

Hawaii's natural resources are essential to the success of our economy, culture, and quality of life, but an alarmingly small amount of money is invested each year to protect and conserve these vital resources. As a result, the Legislature passed **HB1308, HD1, SD2, CD1**, which establishes a permanent adequate funding source for land conservation by increasing the conveyance tax on a sliding scale for homes valued at \$600,000 and above, and dedicating ten percent of the annual proceeds from the conveyance tax to the existing land acquisition fund. This increase in the conveyance tax allows the development, sale, and improvement of real estate in Hawaii, which

COMMITTEE ON WATER, LAND, AND AGRICULTURE—*cont'd*

adds additional pressures on natural areas, coastal access, agricultural production, and water resources, to contribute to the protection and preservation of our watershed and other natural resource preservation programs.

- **Important Agricultural Lands**

For many years, the Legislature has been working on legislation to preserve Hawaii's precious agriculture lands. This year, the Legislature passed important legislation, **HB1640, HD3, SD2, CD1**, which establishes policies and procedures for identifying important agricultural lands (IALs) within the State and for creating incentives for farmers and landowners. Specifically, this measure creates:

- (1) Policies to assure the conservation and availability of IALs for long-term agricultural use;
- (2) Standards and criteria for the identification of IALs;
- (3) A process for the identification of IALs;
- (4) Standards and criteria for the reclassification and rezoning of lands identified as IALs; and
- (5) Policies for incentives for the long-term retention of IALs for agricultural viability.

Land is the basic resource for agriculture and the supply of lands suitable for agriculture is an irreplaceable resource; however, the long-term viability of the agricultural industry also depends on other factors that affect its profitability. Thus, this measure balances the need for preserving agricultural land and providing incentives and programs to ensure the viability of agriculture in Hawaii.

COMMITTEE ON WAYS AND MEANS

- **General Appropriations Act of 2005; State Budget**

HB100, HD1, SD1, CD1, the General Appropriations Act of 2005 (the state budget) was crafted by the Legislature as a balanced budget, which focuses primarily on improving the quality of life for the people of Hawaii. This approach also recognizes the pressing needs of our communities, particularly in the areas of education, controlling the crystal methamphetamine or "ice epidemic", supporting the most vulnerable people in our communities, and ensuring a sustainable future for our children. Despite the strong economic indicators for Hawaii, the Legislature, as in previous years, continues to take a prudent and fiscally responsible approach to balancing competing demands for resources in the development of the Executive Biennium Budget. Although the economic outlook, based upon the March 8, 2005 meeting of the Council of Revenues projections is promising, the Legislature proceeded with caution in anticipation of a reduction in state revenue. Additionally, a reduction in federal funding to Hawaii is on the horizon as Congress debates the President's plan to shift more of its current services and obligations to the states.

COMMITTEE ON WAYS AND MEANS—cont'd

According to the National Conference of State Legislatures, Hawaii joins the overwhelming majority of states with no budget gaps for fiscal year 2004-2005. Hawaii also falls in line with about half of the states entering fiscal year 2005-2006 without any spending overruns. Performance of major tax categories has exceeded expectations from last year, with the outlook for fiscal year 2005-2006 being positive but not likely to match or exceed the current fiscal year's rate of growth.

The 2005 state budget:

- Continues to support education system reform efforts initiated by Act 51, Session Laws of Hawaii 2004, including capital improvement projects and school repair and maintenance;
- Continues efforts to stem the ice epidemic by providing the resources needed to meet the objectives established by Act 40, Session Laws of Hawaii 2004;
- Provides additional funding for the development, construction, and management of affordable housing; homeless programs; and the general assistance population;
- Funds collective bargaining agreements;
- Ensures that valuable green space will be preserved and protected for future generations;
- Provides funds for the continued expansion of tourism promotional programs;
- Supports the needs of the University of Hawaii system;
- Provides funding to combat invasive species;
- Assists the counties by providing money to maintain their roads; and
- Honors the sacrifices being made by the men and women of the Hawaii National Guard.

In total, the state budget appropriates \$8,901,073,367 for fiscal year 2005-2006, and \$9,077,143,397 for fiscal year 2006-2007, for operating costs.